

Workers' Compensation Insurers' Task Force
Sept. 15, 2010
minutes

Members present

Mary Abraham, Westfield Ins.
James Jester for Dennis Ballinger, Western Nat'l
Charlie Bierman, Mayo Clinic
Robert Farber, Berkley Risk
Meg Kasting, SFM
Claire McCoy, GAB Robins
Dave Oertli, Sedgwick CMS
Laurie Simonsen, Travelers
Cindy Van Eyll, General Casualty
Jerry Walthour, City of Minneapolis
Gary Westman, MN Dept of Administration

Members present via telephone

Jodi Connor, Wausau

Members absent

Bruce Baker, Liberty Mutual
Karen Clayton Ebert, MCIT
Bob Johnson, Insurance Federation of MN
Susan Pilon, RTW

Staff members present

Kate Berger
David Berry
Penny Grev
Ralph Hapness
Julie Klejewski
Mark McCrea
Donna Olson
Patricia Todd
Lisa Wichterman
Jana Williams

Visitors present

Peter Bratsch, Minnesota Department of Commerce
Robert Commodore, Minnesota Dept. of Commerce
Chief Judge Ray Krause, OAH
Lorna Leatherdale, MCIT
Tammy Lohman, Minnesota Dept. of Commerce
Ryan Shaughnessy, Liberty Mutual (via telephone)

The meeting was called to order at 9:05 a.m. by co-chairperson Gary Westman. Members and visitors introduced themselves. The agenda was accepted as presented with the addition of discussing the negative cost-of-living adjustment.

4) Assistant commissioner updates

Legislative update

Todd reported the department is not working on legislative proposals with the Workers' Compensation Advisory Council at this time; however, this process usually begins as the legislative session comes closer. The new rules about medication, treatment parameters and PPD have been out for about a month.

5) New business

OAH process

Judge Ray Krause gave background information and a brief overview about the changes the Office of Administrative Hearings (OAH) is implementing – primarily in response to the report done by the

Legislative Auditor about the process of workers' compensation practices and legislative hearings, particularly the dispute-resolution process and how it could be made more efficient, faster and less complex.

Of the process improvements OAH is implementing, the major changes affecting the public include block assigning, all cases set for hearing within 90 days of the time they are certified ready for hearing, documenting with an order explaining why a continuance was requested, as well as who requested it, and to have decisions out within 45 days of the close of record.

More information and frequently asked questions can be found at www.oah.state.mn.us/wc.html.

Commissioner Steve Sviggum joined the meeting and shared a document from the Minnesota CompScope Advisory Committee, dated Sept. 14, 2010, in regard to the WCRI findings from *CompScope Benchmarks*, 11th edition. The findings focused on three areas: OAH/DLI changes to the workers' compensation system; rising costs of medical costs; the cost of vocational rehabilitation in Minnesota. He stated Minnesota does have a good workers' compensation system; however, any system or program can always be made better. He had presented recommendations to help improve the workers' compensation system in Minnesota to the WCAC the past three years without success.

Licensing – Department of Commerce

Robert Commodore and Peter Bratsch from the Department of Commerce spoke to members regarding significant changes to the laws governing insurance adjusters, which took effect July 1, 2010. Some key bullet points in their handout include:

- Insurance adjuster licenses will be issued with the following lines of authority: property and casualty, workers' compensation and crop. All current independent and public adjuster licenses will be converted to the P&C line of authority on July 1, 2010. Public adjuster solicitor's and crop hail adjuster licenses will not change. Exams for the new lines of authority should be available in June 2010.
- Resident insurance adjusters will have continuing education requirements. Insurance adjuster continuing education will consist of 24 hours during each licensing period. At least three of those hours must be in a class or classes in the area of ethics.
- The license renewal date will change from Oct. 31 to the last day of the adjuster's birth month.
- A distinction will now be made between resident and nonresident insurance adjusters in terms of a "home state," which means the District of Columbia and any U.S. state or territory in which an adjuster's principal place of residence or business is maintained and in which the adjuster is licensed as a resident adjuster. If the adjuster's resident state does not license adjusters for the line of authority sought, the adjuster may designate as the home state any state in which the adjuster is licensed and in good standing. Nonresident adjusters must maintain a resident adjuster license in their home state for their Minnesota nonresident adjuster license to remain valid.
- Insurance adjusters whose licenses expire will be able to reactivate them within 12 months of the renewal date by paying double fees.
- An applicant for a resident independent or public insurance adjuster license must submit fingerprints for a criminal history background check and pay an associated fee. If you already have a valid Minnesota insurance adjuster license, your fingerprints will not be needed unless you decide to add a line of authority.

- Independent and public adjusters will start paying the \$40 technology surcharge.
- An exemption from the preclicensing examination requirement will be available to someone who is or was licensed in another state for the same line(s) of authority based on an adjuster examination, if the person is currently licensed in another state for the same line(s) of authority or if that state license for the same line(s) of authority has expired within the previous 90 days.
- An exemption from the preclicensing examination requirement will no longer be available to someone who has completed all parts of the Insurance Institute of America program in adjusting.
- Nonresident insurance adjusters who are occasionally in Minnesota to adjust a single loss will no longer be exempt from licensure.
- Certain statutory provisions affecting a “homeowner’s” rights with regard to a contract with a public adjuster have been extended to all insureds. The time within which such a contract can be canceled has been extended to 72 hours.
- A public insurance adjuster must deposit funds managed on an insured’s behalf in an escrow or trust account regarding meeting specified criteria.

There was detailed discussion about third-party administrators (TPAs). The Department of Commerce will be updating the “FAQs” on its website; if anyone has questions, contact the agency at (651) 282-6407 or peter.bratsch@state.mn.us.

They also encouraged members to visit their ProducerEDGE website, which is powered by Sircon. It’s available to adjusters, as well as producers, and will track your licensing, education and renewals – and it’s free – www.produceredge.com/minnesota.

Fee schedule and conversion factors

Kate Berger and David Berry from the department gave an update about the medical fee schedule and changes to the relative value units and conversion factors (tables) that will go into effect Oct 1, 2010. All three handouts, as well as additional information, is online at www.dli.mn.gov/WC/HealthCareProv.asp. Members may contact David Berry at (651) 284-5208 or david.berry@state.mn.us with further questions.

Interaction with compliance

Penny Grev and Ralph Hapness from the department followed up on the compliance self-evaluation worksheet and audit process Penny brought forth at the May meeting. This program is totally voluntary and is designed to help insurers and third-party administrators self-identify areas of concern about compliance with the workers’ compensation statutes and rules. Beyond helping companies self-identify problem areas of compliance to focus on, DLI will ask insurers and third-party administrators to send a summary of their completed worksheet to the department to show the areas where training would be most helpful for all companies. This form should be going out to companies within the next week or so.

The compliance area will also come to your organization to conduct training, if this is something companies would be interested in. There would be minimal charges involved with this specific training, the same as other DLI sponsored training. For further information, contact Penny Grev at penny.grev@state.mn.us or (651) 284-5450 or Ralph Hapness at ralph.hapness@state.mn.us or (651) 284-5226.

Cost-of-living adjustment

It was discussed that this was the first year with a negative cost adjustment. Members were concerned with how the industry would be implementing it, if there would be consistency and how the employee would be notified, by letter or by NOID. The department plans to send a letter and will send the WCITF members a copy when it's available. These department letters will be sent only to those claimants handled by the Special Compensation Fund; the department will also send a NOID.

More information about this topic will be added to the department's website where it can be found easily, such as the home page, etc.

2011 WCITF meeting dates

Westman asked members to mark their calendars with the following **2011** meeting dates: March 16, May 18, Sept. 21 and Nov. 16.

Patricia Todd announced some DLI staff members will be taking advantage of the state's early retirement incentive and wanted to take this opportunity recognize a couple key staff members in the Safety and Workers' Compensation Division, to thank them for their great service to the state of Minnesota and their great contributions in the division. They are Jana Williams, who will retire at the end of this year, and Leslie Doolittle, who will retire at the end of October. There will also be two support staff members retiring and one individual who currently works in the rehabilitation area.

6) Future agenda items

Gary reminded members to contact him or Karen for ideas and suggestions for future agenda topics to discuss.

The next meeting is Wed., Nov. 17, 2010, at 9 a.m.

7) Reports/meeting schedule

- The August 2010 edition of *COMPACT* and past editions are available online at www.dli.mn.gov/WC/Compact.asp.
- The WCITF meeting schedule, agenda and minutes are available online at www.dli.mn.gov/wcitr.asp.

The meeting adjourned at 11 a.m.

Respectfully submitted,

Julie Klejewski

Executive Secretary